

# Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: 6 February 1950

FROM : Assistant General Counsel

SUBJECT: Scientific Grades above GS-15.

1. In an effort to secure competent top-flight scientific intelligence personnel for this Agency, the Congress authorized the Central Intelligence Agency to establish and fix the compensation for not more than three positions in the professional and scientific field at a rate of compensation not to be less than \$10,000 per annum nor more than \$15,000 per annum,

". . . each such position being established to effectuate those scientific intelligence functions relating to national security, which require the services of specially qualified scientific or professional personnel. . ." (Section 9, Public Law 110, 81st Congress).

House Report No. 160 (81st Congress), which accompanied Public Law 110, states that these three positions are established "for the employment of outstanding men in the scientific field of foreign scientific intelligence." There is no question that the sole intent of this Agency in requesting such authority, and the sole intent of the Congress in granting it, was for the purpose of hiring the very best available personnel in the field of foreign scientific intelligence, and to pay them salaries commensurate with those paid by other Government agencies for top-flight scientific personnel.

2. Certain problems have now been raised by the passage of the Classification Act of 1949 (Public Law 429, 81st Congress). The Central Intelligence Agency was specifically exempted from the provisions of this Act (Section 202(16)). In accordance with this exemption, the Comptroller General of the United States has ruled (Opinion of 15 November 1949) that the provisions in the Classification Act of 1949 relative to the placement of employees in Grades 16, 17, and 18, and the limitation upon the number of such employees "have no application to the Central Intelligence Agency." However, the Comptroller General points out that Section 9 of the Central Intelligence Agency Act specifically limits the authority of the Director of Central Intelligence to establish and fix the compensation of not more than three positions in the professional and scientific field at salaries ranging from \$10,000 to \$15,000 per annum, and the Comptroller General determined that this numerical limitation of Section 9 was controlling in this connection.

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3. In a subsequent meeting with Mr. Houston on 11 January 1950, Mr. Fisher, General Counsel of the General Accounting Office, gave as his opinion that the limitations of Section 9 of Public Law 110, as interpreted by the Comptroller General's decision of 15 November, did not contemplate a prohibition of employment of scientists and professional men at grades above GS-15 merely because they happen to be scientists or professionals. He believed that the law as presently written did prohibit the establishment of more than three grades above GS-15 in OSI, as it would be difficult to establish that the scientist in that office was not in the field of scientific intelligence.

4. It was our intention, when Section 9 of Public Law 110 was passed, to be able to pay three top-flight scientists at top grades. It was felt that we could not justify the payment of top grades to more than three as long as there was a limitation of \$10,330 upon the normal salary schedule. However, the passage of the Classification Act of 1949 has raised the salary ceiling to \$14,000, while this Agency is still restricted to three positions in the scientific intelligence field in excess of \$10,000. This appears to create an inequity with regard to top-flight scientific personnel.

5. There are two alternatives for meeting this situation, both lying in the legislative field. The first is an outright repeal of Section 9 of the Central Intelligence Agency Act; and the second is its amendment. The outright repeal of the Section in its entirety would make it necessary for the Director to use his broad legislative authority to certify to the necessity of continuing to pay the present Assistant Director/OSI at a rate of \$15,000 per annum. This can be done, and it is our opinion that from a legislative standpoint it is preferable to repeal the Section in its entirety. It is felt that this will create the least discussion on the Hill and elsewhere. The alternative would be to amend Section 9 of Public Law 110 so that the compensation provision should read ". . . shall not be less than \$13,000 per annum, nor more than \$15,000 per annum. . ." This would raise the general ceiling for scientists in the field of foreign scientific intelligence to \$13,000, and would still allow three senior positions in the scientific field between the salaries of \$13,000 per annum and \$15,000 per annum.

6. It is recommended that the Director approve both of these alternatives and express a preference for outright repeal. We will then be able to use these approvals as a basis for informal discussion, first with the Bureau of the Budget, and second with the staffs of the Congressional Armed Services Committees

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to ascertain their attitude as to the preferable solution. Once this has been ascertained, we can make the necessary formal submission.



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